Brief Discussion of the Patentability of the Amended Claims

(1)   Applicants respectfully submit that the prior art rejection of claim 387 indicates that the prior art has not been properly applied to the means-plus-function element ("centering means for centering") recited in claim 387. The MPEP specifically states that "the application of a prior art reference to a means or step plus function limitation requires that the prior art element perform the *identical function* specified in the claim." MPEP § 2182, emphasis added. Along these lines, the Federal Circuit stated that "[t]he corresponding structure to a function set forth in a means-plus-function limitation *must actually perform the recited function, not merely enable the pertinent structure to operate as intended.*" *Asyst Technologies Inc. v. Empak Inc.*, 60 USPQ2d 1567, 1672-73 (Fed. Cir. 2001), emphasis added. With respect to the function itself, it is well settled that *all* functional statements which follow the "means for" language must be considered. *See, e.g., Sage Products Inc. v. Devon Industries Inc.*, 44 USPQ2d 1103, 1110 (Fed. Cir. 1997). The function is this means-plus-function element is not disclosed by Hiraki, Applicants respectfully contend.

(2)   Claim 231 does not state the/an intended use of the label applicator but rather positively recites the elements, e.g., "a first label....positioned ... on the label support surface ... " "and alternatively a second label ... positioned ... on the label support surface ..." In other words, it positively recites the presence and position of the label elements. It is not seen where there is any intended use issue involved. And Kolosko et al in view of Miyoshi does not disclose these labels and their claimed positions.

Concluding Remarks

Accordingly, it is respectfully contended that all of the claims now pending are in condition for allowance. Entry of these amendments and issuance of the Notice of Allowance at an early date are thus in order.

or by 5,951,819 (Hummell et al. (see, e.g.
FIGS. 3 and 4)

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